

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KENNETH MCLEOD and GEORGIA  
MCLEOD,

Plaintiffs,

v.

FIFTH THIRD BANK, U.S. BANK, N.A., and  
BANTERRA CORP.,

Defendants.

Case No. 3:17-cv-00581-JPG-RJD

**MEMORANDUM & ORDER**

**J. PHIL GILBERT, DISTRICT JUDGE**

This matter comes before the Court on defendant Banterra Corp.’s motion to dismiss or remand for lack of subject-matter jurisdiction. (Doc. 29.) The plaintiffs originally filed this suit in the Circuit Court of Saline County, Illinois, against defendants Fifth Third Bank and U.S. Bank, N.A. The defendants then removed the case to this Court on a theory of diversity jurisdiction pursuant to 28 U.S.C. § 1332. (Doc. 1.) For diversity jurisdiction to exist, no party on one side of a suit may be a citizen of the same state as any party on the other side of the suit. *See Strawbridge v. Curtiss*, 7 U.S. 267 (1806). At the time of removal, complete diversity existed: the plaintiffs were citizens of Illinois, defendant Fifth Third Bank was a citizen of Ohio, and defendant U.S. Bank, N.A. was a citizen of Ohio.

On October 6, 2017, the plaintiffs filed an amended complaint that added Banterra Corp. as a defendant. (Doc. 21.) Banterra Corp. is a citizen of Illinois, which means that the amended complaint destroyed diversity jurisdiction: a defendant was now a citizen of the same state (Illinois) as the plaintiffs. Banterra Corp. then asked the Court to remand the case back to state court for lack of jurisdiction pursuant to 28 U.S.C. § 1447(c). (Doc. 29.) Defendants Fifth Third

Bank and U.S. Bank, N.A.—the parties that originally removed this case to federal court—asked the Court for an extension of time to respond to Banterra Corp.’s motion. (Doc. 32.) The Court granted the motion for an extension of time, but Fifth Third Bank and U.S. Bank, N.A. never filed their response to the motion for remand. The parties have since informed the Court that this was not a fluke: after further consideration, Fifth Third Bank and U.S. Bank, N.A. decided not to oppose Banterra Corp.’s motion for remand. (Doc. 38.)

Accordingly, the Court **GRANTS** Banterra Corp.’s motion for remand (Doc. 29) and **REMANDS** this case pursuant to 28 U.S.C. § 1447(c) to the Circuit Court of Saline County, Illinois for lack of subject-matter jurisdiction.

**IT IS SO ORDERED.**

**DATED: JANUARY 18, 2018**

*s/ J. Phil Gilbert*  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**